

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2515 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT KAMGAR PANCHAYAT

Versus

STATE OF GUJARAT

Appearance:

MR TR MISHRA for Petitioner

MS. GAJJAR, AGP, for Respondent No. 1, 4

NOTICE SERVED BY DS for Respondent No. 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 02/11/98

ORAL JUDGEMENT

By way of this Special Civil Application the petitioner Trade Union seeks a direction against respondent No. 2 to submit report under Section 12(4) of the Industrial Disputes Act. A further direction has been sought against respondent No. 1 to refer the dispute to the Labour Court under Section 10 of the Industrial Disputes Act for adjudication.

The petitioner Union raises an Industrial Dispute on 12.5.1996 by sending demand notice dated 12.5.1996 to respondent No. 3 Company, M/s. Pepsico India Holdings Pvt. Ltd. with respect to wage revision. Notice was replied by the Company. A rejoinder was also given. However, the parties agreed for the joint reference which is evident from Annexure-A at page 16. However, the Conciliation Officer refused to admit the matter in conciliation. The matter was taken up with the Labour Officer. The Labour Officer has asked for certain queries. The petitioner says that these queries have been answered. This court by order dated 31.3.1997 directed the petitioner to make a representation to the Government. The petitioner accordingly made a representation to the Government but nothing has been done in that regard. The learned counsel for the petitioner contends that there is controversy with respect revision of the wages and therefore the Conciliation Officer ought to have admitted the matter in conciliation and it was also incumbent upon the Government to make a reference. The learned counsel has placed reliance on various decisions of the apex court (1) V. VEERA RAJAN AND ORS. VS. GOVERNMENT OF TAMIL NADU AND ORS. reported in 1987 LLJ page 210 (2) RAM AVATAR SHARMA AND OTHERS VS. UNION OF INDIA reported in 1985 II LLJ page 187 (3) NIRMAL SINGH VS. STATE OF PUNJAB & OTHERS reported in 1984 II LLJ page 396.

I have heard the learned counsel for the petitioner as well as the learned A.G.P. It is now well settled that the dispute in question raises a question of law or the question raises disputed question of fact, it is appropriate for the Government to make a reference. I do not find any justified ground for not making any reference more particularly when an application for joint reference has been made.

In view of the aforesaid, this Special Civil Application is allowed and the respondent State Government is directed to make a reference as prayed for in the application Annexure-A at page 16 by the petitioner Union. The reference shall be made within a period of two months from the date of receipt of the order. Rule made absolute. No order as to costs.

00000

[pkn]